

February 15, 2019

The Hon. Elizabeth Warren  
United States Senate  
Washington, D.C. 20510

Dear Senator Warren:

We are writing jointly in response to your letter of February 6, 2019. We understand and appreciate your concern about the operations of the Department of Veterans Affairs (“VA” or “Agency”), and the care of our veterans.

As an initial matter, we want to make clear that the description of our relationship and interactions with the VA reported in the press, including the *ProPublica* stories cited in your letter, are for the most part factually incorrect and misleading. Much of what *ProPublica* has written about us is not based in fact and instead relies on unnamed sources, redacted documents lacking context, and innuendo, and we are troubled that many have adopted the articles as the ground truth. Consequently, we appreciate your letter and the opportunity to discuss our involvement with the VA.

First, each of us cares deeply about veterans’ issues, particularly healthcare. While it is true that we have not served in the U.S. Military or worked for the government, we believe that all Americans owe a debt of gratitude to our veterans. Such service, while commendable, is not and should not be a prerequisite for supporting veterans’ issues. That is why, when President Trump and senior leadership at the VA asked for our help, we gladly volunteered our time to do so.

Second, our only motivation in volunteering was to help improve veterans’ care. We never profited, nor sought to profit, in any manner from our interaction with the VA. In response to the questions posed in your letter, we did not engage in any securities transactions or business arrangements based on information received from or provided to the VA, nor did we recommend that others do so.

The VA’s struggles are no secret. From the well-chronicled wait time issues to more recent quality of care concerns, there have been numerous setbacks in providing our veterans with the level of care they deserve. Shortly after his election, President Trump sought input from Mr. Perlmutter, who is known for his success in helping large organizations, about improving operations at the VA. Mr. Perlmutter, in turn, enlisted Dr. Moskowitz, who has decades of experience as a practicing physician and significant contacts in the academic and nonprofit healthcare communities, and Mr. Sherman, an expert on organizational risk management.

Over the next year and a half, Secretary Shulkin and other senior leaders at the VA reached out to us for personal advice and introductions to healthcare experts as they sought to improve the VA. We were not VA employees or contractors, and we did not hold ourselves out as such. To the extent that the VA had obligations under federal law regarding our interactions, we assumed that the Secretary and his senior staff were ensuring those obligations were met. Our primary role was in bringing together renowned healthcare experts, principally from the academic medical centers and non-profit sectors, who in turn provided their own input to VA staff so that



they could make better informed decisions about how to improve care to veterans. To the extent that we provided advice on an individual basis, it was when VA officials requested it. We were three of many individuals whom the VA consulted over time. We had no formal role, and we did not hold ourselves out as having one. We now understand that some line-employees at the VA may have misunderstood our role. We expected senior VA leadership to make clear the capacity in which we were acting.

In making these introductions, we focused on helping with issues which, even in today's partisan environment, cannot fairly be viewed as political, including: improving the supply chain so hospitals have what they need to operate, preventing veterans' suicide, and reducing obstacles female veterans face in receiving medical care. We volunteered our time solely because we believed that the VA was failing to give veterans quality, timely healthcare.

One of the challenges in providing proper healthcare to veterans involves the failure to implement a fully-functioning electronic health records system ("EHR"). Your letter expresses understandable concern about the VA's contract with the Cerner Corporation to overhaul the VA's EHR system. These are consistent with concerns we expressed to the VA at the time. The Cerner contract issue is also one of the many examples of inaccurate reporting regarding our involvement with the VA. Initial reports criticized us for attempting to hold up the Cerner contract. *ProPublica* wrote in an August 7, 2018 article, "For months, the Mar-a-Lago Crowd pressured Shulkin to put the contract through additional vetting."<sup>1</sup> However, once serious concerns began to emerge publicly about the contract, the narrative changed, suggesting that we instead had tried to push the VA to adopt the Cerner contract. *ProPublica* wrote on November 1, 2018 that we "actually championed it [the Cerner contract], highlighting the issue to the incoming Trump White House and making it their top focus[.]"<sup>2</sup>

The truth is that we were not responsible for the VA's decision to replace its existing system with a commercial system, selecting Cerner as the replacement vendor, or deciding to contract with Cerner through a sole-source process. Once the VA made its decisions to do so, our primary role was to introduce experts who could then offer their own advice to VA leadership about contract provisions relating to the implementation of the Cerner system and the functional design of the system, based on best practices and the experts' significant experience in leading the implementations of many such projects. The experts identified numerous issues of concern, and we and the experts encouraged VA personnel to evaluate the \$16 billion project critically. The experts highlighted the proposed system's lack of interoperability with community providers, and its issues with test duplication and medication errors, among others. VA leadership, however, ultimately decided to overlook many of these concerns in favor of moving forward with a contract swiftly, even though the experts warned of the risks that the VA seemed to lack a roadmap and the technical expertise within its leadership.

To be clear, none of us nor our families have investments in Cerner, and as we indicated above, we did not seek or obtain any financial benefit from our involvement in the discussions about

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<sup>1</sup> Isaac Arnsdorf, The Shadow Rulers of the VA, PROPUBLICA (Aug. 7, 2018), <https://www.propublica.org/article/ike-perlmutter-bruce-moskowitz-marc-sherman-shadow-rulers-of-the-va>.

<sup>2</sup> Isaac Arnsdorf, The VA Shadow Rulers' Signature Program Is "Trending Towards Red", PROPUBLICA (Nov. 1, 2018), <https://www.propublica.org/article/va-shadow-rulers-program-is-trending-towards-red>.

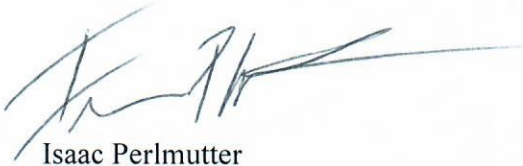


EHRs or any other issue involving the VA. Your letter notes that we signed non-disclosure agreements in order to review the Cerner contract before it was finalized. While each of us did so, we understand that we were among a group of many third-parties who were asked by the VA to sign non-disclosure agreements so that we could provide input on the Cerner contract. Many of these third-party experts were introduced to the VA by us and were praised by VA leaders for their role in providing feedback on the EHR effort.<sup>3</sup> Throughout this process, VA leadership repeatedly requested input from these experts and expressed gratitude for their expertise. We find it unfortunate that we are now being criticized for trying to facilitate the VA's access to the best experts in the world on these key issues. We find it even more unfortunate that many of the specific problems with the Cerner contract that we and the experts had flagged for the VA are now being reported in the media to have come to fruition.

Advice we offered was at the request of VA officials. Upon his nomination, Secretary Shulkin repeatedly reached out to us for help on a range of issues. He offered frequent updates about projects and thanked us for our assistance. Secretary Wilkie, following his confirmation in July 2018, has not solicited our advice and so we have not provided it. We have, as a result, not engaged with VA personnel for many months.

We hope this information is helpful to you and your staff members.

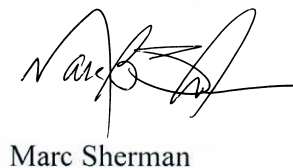
Sincerely,



Isaac Perlmutter



Bruce Moskowitz



Marc Sherman

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<sup>3</sup> *Veterans Affairs Electronic Health Record Oversight: Hearings before the Appropriations Military Construction and Veterans Affairs Subcommittee*, House, (Testimony of Sec. Shulkin) (Nov. 15, 2017) ("We're taking advantage of the private sector CIOs. Mr. Blackburn's going to be on a call with five of the leading CIOs in the country getting their advice, asking what mistakes are likely to happen and – and, essentially, using private-sector input. I've been a private-sector CEO. I've done the EHR implementations. It doesn't I've done anything like this or – or this complicated. Nobody has, but I think we're committed to working with the private sector and DoD in ways that V.A. before just hasn't been willing to do." (sic)).